

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 12/8/2022
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSE LUIS TOXQUI, *on behalf of himself and others*  
*similarly situated,*

Plaintiff,

-v -

THE JADE FARM LLC, *d/b/a Jue Lan Club, et al.,*

Defendants.

----- X

GREGORY H. WOODS, United States District Judge:

1:22-cv-7899-GHW

ORDER

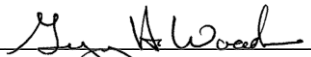
As discussed at the December 8, 2022 conference, Plaintiff's proposal to conduct limited discovery on the factual issue of contract formation in advance of any motion to compel arbitration, *see* Dkt. No. 23, is granted. The parties are directed to exchange disclosures under Federal Rule of Civil Procedure 26 no later than fourteen days from the date of this order.<sup>1</sup> The parties are provided twenty-one days to respond to any requests for production or interrogatories. Discovery on this issue will conclude on February 27, 2023. Finally, no later than one week from the close of discovery, the parties are directed to provide a joint status update to the Court concerning that discovery. That status update should include, in addition to a general update on the status of discovery, the parties' views on (a) whether the relevant question of fact about contract formation is properly one for a judge or a jury, (b) if the question is one for a jury, whether the parties would consent to have it tried by a judge, and (c) if the question is one for a judge or if the parties consent to have the issue tried by a judge, whether the parties consent to having the issue tried by a magistrate judge. Defendant's request for leave to file a motion to compel arbitration, Dkt. No. 21,

<sup>1</sup> The Court also notes its expectation that by that same date, counsel for Plaintiff will present an affirmation from his client sufficient to raise a dispute of fact concerning contract formation. *See Barrons v. Brinker Rest. Corp.*, 36 F.4th 45, 51 (2d Cir. 2022).

is stayed until the resolution of this factual issue.

SO ORDERED.

Dated: December 8, 2022  
New York, New York

  
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GREGORY H. WOODS  
United States District Judge